

**ALASKA STATE LEGISLATURE**  
**HOUSE SPECIAL COMMITTEE ON FISHERIES**

February 14, 2017

10:08 a.m.

**MEMBERS PRESENT**

Representative Louise Stutes, Chair  
Representative Zach Fansler  
Representative Jonathan Kreiss-Tomkins  
Representative Geran Tarr  
Representative Mike Chenault  
Representative David Eastman

**MEMBERS ABSENT**

Representative Mark Neuman

**OTHER LEGISLATIVE MEMBERS PRESENT**

Representative Dan Ortiz

**COMMITTEE CALENDAR**

HOUSE BILL NO. 87

"An Act relating to participation in matters before the Board of Fisheries and the Board of Game by the members of the respective boards; and providing for an effective date."

- MOVED CSHB 87(FSH) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 87

SHORT TITLE: CONFLICT OF INTEREST: BD FISHERIES/GAME

SPONSOR(s): REPRESENTATIVE(s) STUTES

01/30/17	(H)	READ THE FIRST TIME - REFERRALS
01/30/17	(H)	FSH, RES
02/09/17	(H)	FSH AT 10:00 AM GRUENBERG 120
02/09/17	(H)	Heard & Held
02/09/17	(H)	MINUTE(FSH)
02/14/17	(H)	FSH AT 10:00 AM GRUENBERG 120

**WITNESS REGISTER**

REID HARRIS, Staff

Representative Louise Stutes  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented Amendment 2 to HB 87, on behalf of Representative Stutes, prime sponsor.

GLENN HAIGHT, Executive Director  
Board of Fisheries (BOF)  
Boards Support Section  
Department of Fish and Game (ADF&G)  
Juneau, Alaska

**POSITION STATEMENT:** Responded to questions during the hearing on HB 87.

CHERYL BROOKING, Assistant Attorney General  
Natural Resources Section  
Department of Law (DOL)  
Anchorage, Alaska

**POSITION STATEMENT:** Responded to questions during the hearing on HB 87.

WES HYUMBYRD  
Homer, Alaska

**POSITION STATEMENT:** Testified during the hearing on HB 87

DUNCAN FIELDS, Representative  
Cape Barnabas, Inc.  
Kodiak, Alaska

**POSITION STATEMENT:** Testified in support of HB 87.

JACK HOPKINS  
Cordova, Alaska

**POSITION STATEMENT:** Testified with opposition for Amendment 1 to HB 87.

ANDREW SMALLWOOD  
Cordova, Alaska

**POSITION STATEMENT:** Testified with opposition for Amendment 1 to HB 87.

MARK RICHARDS  
Resident Hunters of Alaska (RHAK)  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified with opposition for HB 87.

NATHANIEL ROSE  
Kodiak, Alaska

**POSITION STATEMENT:** Testified in support of HB 87.

LINDA BRUCE, Attorney  
Legislative Legal Services  
Legislative Affairs Agency  
Juneau, Alaska

**POSITION STATEMENT:** Responded to questions during the hearing on HB 87.

**ACTION NARRATIVE**

[10:08:06 AM](#)

**CHAIR LOUISE STUTES** called the House Special Committee on Fisheries meeting to order at 10:08 a.m. Representatives Stutes, Tarr, Eastman, Chenault, Fansler, And Kreiss-Tomkins were present at the call to order. Representatives Ortiz was also present.

**HB 87-CONFLICT OF INTEREST: BD FISHERIES/GAME**

[10:09:27 AM](#)

CHAIR STUTES announced that the only order of business would be HOUSE BILL NO. 87, "An Act relating to participation in matters before the Board of Fisheries and the Board of Game by the members of the respective boards; and providing for an effective date."

[10:09:51 AM](#)

REPRESENTATIVE CHENAULT moved Amendment 1, labeled, 30-LS0376\U.1, Bruce/Bullard, 2/9/17, which read as follows

Page 1, line 1, following "**Act**":

Insert "**relating to meetings of the Board of Fisheries; and**"

Page 1, following line 3:

Insert a new bill section to read:

"\* **Section 1.** AS 16.05.251 is amended by adding a new subsection to read:

(j) The board shall meet on a five-year cycle to consider regulatory proposals for management of a specific fishery. The board shall rotate the location of a meeting cycle for a specific fishery under this

subsection between at least three different communities with populations of 4,000 or more within the applicable fishery."

Page 1, line 4:  
Delete "**Section 1**"  
Insert "**Sec. 2**"

CHAIR STUTES objected for discussion.

[10:10:02 AM](#)

REPRESENTATIVE CHENAULT explained that Amendment 1 will change the current three year board cycle to a five year cycle. The reason to take that action is to align with the fish life cycle, and to allow information/regulations to be predicated in a more useable time frame. The amendment also specifies that Board of Fisheries (BOF) meetings will be held in communities with population of 4,000 or more, in proximity to the applicable fisheries.

[10:11:22 AM](#)

The committee took a brief at-ease at 10:11 a.m.

[10:11:39 AM](#)

REPRESENTATIVE EASTMAN asked about the current locale choices for convening BOF meetings.

REPRESENTATIVE CHENAULT reported that board meetings are routinely held in the Wasilla, Anchorage, and Lower Cook Inlet areas. He said the community where he resides doesn't meet the current standard to host meetings. The Upper Cook Inlet is a contentious fishery and interested residents shouldn't have to foot the travel costs to present their issues before the board, he opined.

REPRESENTATIVE EASTMAN questioned the purpose for extending the meeting cycle from three to the five years.

REPRESENTATIVE CHENAULT suggested that a longer cycle would provide better information, and said a three year management plan doesn't provide adequate comprehensive data. A five year cycle would also result in fewer meetings, which should represent a cost savings to the state, as well.

[10:14:41 AM](#)

REPRESENTATIVE KREISS-TOMKINS agreed with the intended merits of Amendment 1, and said there may be other cost saving options to consider as well.

REPRESENTATIVE FANSLER asked what impacts this measure will have on the Board of Game (BOG), if any.

CHAIR STUTES confirmed that it applies to both boards, as BOF and BOG are governed under the same statute.

[10:16:29 AM](#)

REPRESENTATIVE CHENAULT added that Amendment 1 only relates to the BOF.

REPRESENTATIVE FANSLER questioned why it should not also apply to the BOG.

REPRESENTATIVE CHENAULT said the BOG has not been reviewed to ascertain whether it would be benefited by inclusion in the measure.

[10:17:12 AM](#)

CHAIR STUTES maintained her objection and suggested that Amendment 1 would be better applied to HB 88.

[10:17:44 AM](#)

A roll call vote was taken. Representatives Chenault and Eastman voted in favor of Amendment 1. Representatives Tarr, Fansler and Stutes voted against it. Therefore, Amendment 1 failed by a vote of 2-3.

[10:18:34 AM](#)

CHAIR STUTES moved Amendment 2, labeled, 30-LS0376\U.6, Bruce/Bullard, 2/13/17, which read as follows

Page 2, line 6:  
Delete "substantial"

[10:18:54 AM](#)

REPRESENTATIVE TARR objected for discussion.

[10:18:58 AM](#)

REID HARRIS, Staff, Representative Louise Stutes, Alaska State Legislature, presented Amendment 2, and said the intent is to place on the record the definition of the term "substantial," and referring to BLACK'S LAW DICTIONARY, 8th Edition, West Publishing Company, 2006, he read: "Of real worth and importance; of considerable value; or valuable." He reminded the committee that the BOF executive director, Glenn Haight, testified on members declaring conflicts, which are recognized but not always considered substantial enough to recuse the member from participation in deliberations and voting.

CHAIR STUTES withdrew Amendment 2.

[10:21:00 AM](#)

REPRESENTATIVE EASTMAN moved Amendment 4, labeled, 30-LS0376\U.2, Bruce/Bullard, 2/10/17, which read as follows:

Page 1, line 5:  
Delete "personal or"

CHAIR STUTES objected for discussion.

[10:21:31 AM](#)

REPRESENTATIVE EASTMAN explained that Amendment 4 removes the term "personal or" to ensure against its use being confused or related to application of the term in context with a personal use fishery.

[10:22:43 AM](#)

MR. HARRIS said the sponsor recommends retaining the original language of the bill, and concurred that the use of "personal or," in the context of HB 87, does not relate to language in other contexts addressing a personal use fishery.

REPRESENTATIVE EASTMAN withdrew Amendment 4.

[10:24:16 AM](#)

REPRESENTATIVE EASTMAN moved Amendment 3, labeled, 30-LS0376\U.5, Bruce/Bullard, 2/10/17, which read as follows:

Page 1, line 12, following "subsection,":  
Insert "(1)"

Page 1, line 13:  
Delete "(1)"  
Insert "(A)"

Page 1, line 14:  
Delete "(2)"  
Insert "(B)"

Page 2, line 2:  
Delete "(3)"  
Insert "(C)"

Page 2, line 4:  
Delete "(A)"  
Insert "(i)"

Page 2, line 5:  
Delete "(B)"  
Insert "(ii)"

Page 2, line 6:  
Delete "(C)"  
Insert "(iii)"

Following "member":  
Insert ";

(2) "personal or financial interest" does not include the involvement of a member, or an immediate family member of a member, in personal use fishing, as defined in AS 16.05.940"

CHAIR STUTES objected for discussion.

[10:24:26 AM](#)

REPRESENTATIVE EASTMAN said Amendment 3 would prevent an unintended consequence and said, "Someone who participates in personal use fisheries would unfortunately be wrapped up in this ... so this language would make sure that that never happens."

[10:25:32 AM](#)

GLENN HAIGHT, Executive Director, Board of Fisheries, Boards Support Section, Department of Fish and Game (ADF&G), said anyone can participate in a personal use, or subsistence,

fishery and that participation doesn't rise to the same threshold of conflicts that causes board members to be recused. He deferred to the Department of Law (DOL) for further comment.

[10:27:00 AM](#)

CHERYL BROOKING, Assistant Attorney General, Natural Resources Section, Department of Law (DOL), agreed with the executive director's explanation and said that, although the amendment language would eliminate the possibility of confusion, there is none initially, based on the existing statute. The general applicability of a law allows that the activity would not require a board member be recused from participation or a vote, as the personal use fishery statute applies to all residents.

REPRESENTATIVE EASTMAN maintained that introducing the term "personal or financial," into statute could result in confusion, which Amendment 3 serves to clarify.

CHAIR STUTES maintained her objection.

[10:29:01 AM](#)

The committee took an at-ease from 10:29 a.m. to 10:32 a.m.

[10:32:47 AM](#)

A roll call vote was taken. Representatives Eastman and Chenault voted in favor of Amendment 3. Representatives Tarr, Fansler, and Stutes voted against it. Therefore, Amendment 3 failed by a vote of 2-3.

The committee took a brief at-ease at 10:34 a.m.

CHAIR STUTES opened public testimony.

[10:35:08 AM](#)

WES HYUMBYRD, expressed concern regarding the level of conflict that exists on both the BOF and the BOG, and opined that every sitting member is conflicted. Three years ago, the BOF began generating and introducing proposals, which represented an illegal action, he said. The local advisory boards consider this a circumventing of the process, and asked that DOL be consulted.

[10:36:52 AM](#)

DUNCAN FIELDS, Representative, Cape Barnabas, Inc., stated support for HB 87 and said it would resolve some of the concerns that have existed for a number of years. "Substantial financial interest" was well defined by the use of BLACK'S LAW DICTIONARY, however, regarding immediate family members, use of the terminology as a qualifier, should be further addressed. He suggested that clarification of the committee's intent for how this language applies directly to a board member would be helpful.

[10:39:26 AM](#)

REPRESENTATIVE KREISS-TOMKINS established that calibrating "substantial financial interest" to apply the same for the board member as it applies for an immediate family member would be a positive change to the bill.

MR. FIELDS replied yes, and, without clarity, there could be ambiguity that allows a board chairman latitude beyond the intent of the committee. It may not be necessary to calibrate the two entities exactly, but some legislative intent language could prove helpful, he opined.

[10:40:58 AM](#)

JACK HOPKINS stated opposition to Amendment 1, opining that the five year cycle would represent a detrimental action and limiting meetings to locales with populations in excess of 4,000 would be unacceptable.

[10:42:16 AM](#)

ANDREW SMALLWOOD stated opposition to Amendment 1, and acknowledged that it did not pass; however, he opined, that consideration of a five year cycle to save the state \$100,000 annually, would be detrimental to management procedures that are considered the best in the world, and which serve to preserve a billion dollar fishing industry. A shortened cycle would also serve to limit public access to the board process.

[10:43:45 AM](#)

MARK RICHARDS, Resident Hunters of Alaska (RHAK), stated opposition to HB 87, and referred to the RHAK detailed position statement contained in the committee packet [dated 2/13/17, two pages], to briefly review the contents. He added the bill may

work for the fisheries, but both boards should strive to be more transparent. He expressed concern that the bill would allow those with conflicts to participate, and suggested that the BOG be removed from the bill.

[10:45:54 AM](#)

NATHANIEL ROSE stated support for HB 87 and said it allows those with experience to participate which could be helpful especially around highly contentious, fisheries issues.

CHAIR STUTES closed public testimony.

[10:47:24 AM](#)

REPRESENTATIVE EASTMAN referred to the RHAK written testimony and opined that it makes a valid point regarding statutory application. He suggested constructing an amendment to resolve the concerns held by the organization.

CHAIR STUTES requested the attorney respond to the statute question and why AS 39.52.120 versus AS 39.52.220 is being applied for this purpose.

[10:48:08 AM](#)

LINDA BRUCE, Attorney, Legislative Legal Services, Legislative Affairs Agency, said the bill outlines a separate procedure for conflicts from the procedure outlined under AS 39.52.220. Thus, it wouldn't be appropriate, given the current language of the bill, to place it within AS 39.52.220.

[10:49:05 AM](#)

REPRESENTATIVE EASTMAN pointed out the RHAK concern that the bill language supersedes the currently held disclosure requirements and activities such as serving on [boards] of outside, organized interests.

MS. BRUCE said that HB 87 supersedes existing statute and creates a separate procedure.

[10:50:07 AM](#)

REPRESENTATIVE FANSLER voiced support for the bill and said it's important to have boards that operate to the benefit of all concerned and embrace all user types. Having a voice at the

table is important and this bill will allow for additional insights, without suppressing appropriate conflicts of interest.

[10:51:56 AM](#)

CHAIR STUTES concurred and said the intent of the legislation is to acknowledge conflict while allowing participation by members with specific knowledge.

[10:52:15 AM](#)

REPRESENTATIVE TARR expressed support for HB 87, and said comfort can be found in the fact that statutes are available, which can be invoked should ethical expectations become a concern.

[10:53:04 AM](#)

REPRESENTATIVE EASTMAN said testimony indicates that HB 87 language will supersede other statutes, and the committee is specifically designed to deal with fisheries. The BOG stakeholders have an interest to not have its board process changed due to these actions. He said it would be good to see statute reflect the overlap and not inadvertently, negatively impact the BOG.

[10:54:20 AM](#)

REPRESENTATIVE FANSLER moved to report the proposed CS for HB 87, Version 30-LS0376\U, Bruce/Bullard, 2/9/17, as amended, out of committee with individual recommendations and the accompanying fiscal notes.

[10:55:05 AM](#)

REPRESENTATIVE EASTMAN objected.

[10:55:08 AM](#)

A roll call vote was taken. Representatives Fansler, Kreiss-Tomkins, Tarr, and Stutes voted in favor of HB 87. Representatives Eastman and Chenault voted against it. Therefore, CSHB 87(FSH), was reported out of the House Special Committee on Fisheries by a vote of 4-2.

[10:55:56 AM](#)

CHAIR STUTES thanked the participants and concluded the meeting.

**ADJOURNMENT**

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at 10:56 a.m.